

To: Jeff Ashton, State Attorney 9th Judicial Circuit.
Re: Notice of Disciplinary Action
From: Kenneth D. Lewis
Date: 6/22/16

On Friday, June 17th, 2016 I received an email directing me to report to Chief Assistant Linda Drane Burdick's office. At approximately 11:15 am I entered Linda Drane Burdick's conference room. Present in the room were Chief Assistant Linda Drane Burdick and Deborah Barra, Director of Trial Unit B. Present outside the office was Eric Edwards, Chief Investigator.

During the meeting I was asked about a non-work related facebook post regarding the City of Orlando. The post was posted on a non-work computer, during non-working hours, and posted in private to my facebook friends. I was asked if I wrote it. I indicated that I did. I was then told by Deborah Barra that my post violated the State Attorney's Social Media Policy. I was told that she was recommending termination but a final decision had not yet been made. I was told I would have an opportunity to meet with you before any action was taken. The discipline titled recommended/imposed handed to me on June 17, 2016 read as follows:

Mr. Lewis' stated opinions on Facebook exhibit poor judgement, and animus towards the citizens of Orlando. As a prosecutor in this community, Mr. Lewis has the responsibility of maintaining the public's trust through the ability, and perceived ability, to exercise sound, unbiased judgement. The community deserves to have confidence that all citizens, victims and defendants, will be treated by the State in a fair and just manner. His stated opinions of Facebook display a hatred for the community in which he works and his comments could be perceived as showing prejudice or bias towards the citizens of Orlando. The opinions and statements of Mr. Lewis are in direct opposition to the mission of the office. As a result, my recommendation is for Mr. Lewis to be terminated.

I was told I had a right to appeal both the finding of a violation and the severity of the sanction and signed a document indicating my intent to do so. I was told that part of the process was a meeting with you before a final decision was made. At the conclusion of the meeting I was told I am under suspension until the conclusion of the process. At approximately 11:45am I was walked out the door by Eric Edwards with all of my personal belongings remaining in my office. Shortly thereafter, I was contacted by several individuals who indicated that you had interrupted an office wide training to call me a racist and a bigot and to announce that I would never step foot in the office again.

On Monday June 20th, 2016 Linda Drane Burdick left me a message to contact her. When I called her back she indicated that you would be refusing to meet with as she had indicated prior. I was told that I could submit something in writing by 5 pm today. In the interim I have already been told by several people that my replacement, [REDACTED] has already been named.

I contest any action taken for the following reasons:

1. The State Attorney's Social Media Policy as written is vague, arbitrary, lends itself to subjective interpretation, and has a chilling effect on the right of my protected free speech. The policy violates my constitutional rights under the 1st, 4th, 5th, 6th, 8th, 9th, 10th, and 14th amendments of the United States Constitution.

2. There was no violation of The State Attorney's Social Media Policy. The post was a form of sensationalism and not directed to ridicule any individual or class of people and in no way infringes on the ability of the office "to carry out our important mission."
Liking or disliking the City of Orlando is irrelevant to a prosecutor's function.

Although liking or disliking a city is irrelevant to a prosecutor's function, my opinions of this city are based upon the last 13 years as a criminal prosecutor, being head of the now defunct homicide unit, and personally prosecuting well over a hundred homicide cases. In recent years there have been an escalating number of senseless murders that show no value for human life. My views are prevailing views based on inconvenient truths. In 2012 Dino Cannon, an 18 year old African American boy from Texas, came to Orlando for the first time to celebrate his high school graduation; he was shot to death outside a club after members of this community battered his sister. Although video captured scores of people witnessing the shooting not a single eyewitness in this community stepped forward.

http://articles.orlandosentinel.com/2012-06-16/news/os-club-shooting-victim-family-makes-plea-20120616_1_orlando-police-shooting-death-surveillance-video

I welcome you to view the video from the Durick Ingraham trial and draw your own conclusions. The spot where Dino Cannon's body laid was in view of my office window and I would think about it daily until his killer was convicted. My views have been routinely expressed by other citizens who work downtown and numerous videos and real life statistics depict Orlando in a less than positive light.

<http://www.wftv.com/news/local/stats-show-hundreds-crime-each-month-downtown-orla/107413562>

<https://www.youtube.com/watch?v=PRfQIaluYY&app=desktop>

http://www.liveleak.com/view?i=2df_1343611463

Regretfully, your way of dealing with these inconvenient truths is eliminating your most effective tool in combating them.

These are questions that I either have for you or would have asked you had you not refused to meet with me to discuss my termination:

1. Why was I not given a face to face meeting with you when I was expressly told I was entitled to one by Chief Assistant Linda Drane Burdick?
2. Why was I told that the investigation was ongoing and not to comment by Linda Drane Burdick if your intent was to comment about the investigation to everyone during an office wide training session held immediately after my meeting with Linda Drane Burdick?
3. Why did you publicly disparage me in front of the majority of attorneys in the office by calling me a racist and a bigot prior to speaking with me directly and prior to conducting a thorough investigation?
4. Why was I told that Debrah Barra's recommendation was not final and that I would have an opportunity to meet with you before the decision was made if you were going to tell all my peers that I would never step foot in the office again?
5. Were the posts included in the Notice of Disciplinary Action considered within the entirety of my facebook account to determine if they were tongue in cheek, satire, or sensationalism?
6. What if any consideration was given to the fact that at the time the comments were made that I was under the direct effect of having just heard about the most horrific mass shooting in United States History which just so happened to have occurred in my hometown?
7. If the posts were deemed so offensive why was I never asked to take the posts down by anyone in your administration including Deborah Barra prior to the June 17th meeting?
8. What does animus towards the citizens of Orlando mean? Is it an inference that I don't like

people solely because they are citizens of Orlando? Did Mrs. Barra interview everyone I know from Orlando including my friends and family who are from Orlando to test the accuracy of her conclusion?

9. How does wanting to see improvement in a city make someone biased as a prosecutor?
10. What is the relevancy of Deborah Barra including my comment about Orlando nightclubs?
11. Were you aware that I never attended any Orlando nightclub including missing farewell gatherings for close friends?
12. Why was a decision of this magnitude allowed to be made by someone with approximately one month of management experience and who might have bias due to their being a member of the Gay and Lesbian community (somehow the bar comment was inferred to be anti-gay)?
13. Was any attempt to interview other members of the gay and lesbian community who would say that I have never treated a member of the gay community any differently than citizens in the heterosexual community?
14. If the basis of Deborah Barra's recommendation is that my comments "could be perceived as" showing prejudice or bias towards the citizens of Orlando why was her subjective opinion the only thing considered?
15. What if any consideration was given to the fact that a full inquiry by your Chief Assistant was made into whether any of my political opinions or affiliations, which coincidentally differ from yours, show absolutely no bias in performing my job duties?
16. Was the victim in my last trial interviewed to determine if she was treated fairly and without bias? The victim in that case, [REDACTED] was a transgender African American.
17. Was my personnel file reviewed before termination was recommended?
18. Were my close to perfect performance evaluations over years of production rendered meaningless due to a meaningless facebook post?
19. Was there any consideration given to the fact that in my career I have never had a case overturned for prosecutorial misconduct?
20. Was it considered that my personnel file does not have a single complaint from any victim, law enforcement officer, judge or defense attorney alleging that I have displayed bias in the course of my job duties?
21. Was the termination recommendation done for the purpose of political expediency? Would I have been terminated if this wasn't an election year?
22. Was this termination solely based on our different political philosophies?
23. Is the public better off when personnel decisions are made by any criteria other than what is the best for the community?
24. Was the effect on the community considered when you decided to deprive them of the work product of their most experienced major crimes prosecutor (a prosecutor without a single acquittal in over 50 homicide trials)?
25. Do you find that your decision of termination is consistent with punishment other employees have endured for policy violations up to and including yourself?
26. Why do the rights of those deemed offended trump the rights of the community?
27. Were any of my unknown facebook "friends" who voluntarily decided to read my posts asked why they are trolling my page or why they don't simply unfriend me?

Kenneth D. Lewis